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April 4, 1996

VIA HAND DELIVERY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

RECEIVED

APR 4 1996

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Re: **EX PARTE**
Docket CC No. 95-185

Dear Mr. Caton:

Yesterday Leonard Kennedy, Werner Hartenberger and I met, on behalf of Cox Enterprises, Inc. and Comcast Corporation, with James Casserly, Senior Legal Advisor to Commissioner Susan Ness to discuss the Commission's jurisdiction over LEC-to-CMRS interconnection. The positions discussed were those taken in the comments and reply comments filed by Cox Enterprises, Inc. and Comcast Corporation in this docket. The attached hand-out on the legislative history of the 1993 Budget Act was distributed at the meeting.

This letter is being filed in original with two duplicates pursuant to the Commission's rules. If you have any questions, please do not hesitate to contact the undersigned.

Respectfully submitted,



Laura H. Phillips

Counsel for Cox Enterprises, Inc.
Comcast Corporation

LHP/css

cc: James Casserly, Esq.

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OMNIBUS BUDGET RECONCILIATION ACT OF 1993

AUGUST 4, 1993.—Ordered to be printed

Mr. SABO, from the committee of conference,
submitted the following

CONFERENCE REPORT

(To accompany H.R. 2264)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2264) to provide for reconciliation pursuant to section 7 of the concurrent resolution on the budget for fiscal year 1994, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Omnibus Budget Reconciliation Act of 1993".

SEC. 2. TABLE OF CONTENTS.

The table of contents is as follows:

(1)

nic drives, overlook sites, picnic tables, toilet facilities, surface water areas, undeveloped or lightly developed shoreland, or general visitor information.

"(3) **PER VEHICLE LIMIT**—The fee under this subsection for use of a site or facility (other than an overnight camping site or facility or any other site or facility at which a fee is charged for use of the site or facility as of the date of the enactment of this paragraph) for persons entering the site or facility by private, noncommercial vehicle transporting not more than 8 persons (including the driver) shall not exceed \$3 per day per vehicle. Such maximum amount may be adjusted annually by the Secretary for changes in the Consumer Price Index of All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.

"(4) **DEPOSIT INTO TREASURY ACCOUNT**—All fees collected under this subsection shall be deposited into the Treasury account for the Corps of Engineers established by section 401 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-6a(i))."

(b) **CONFORMING AMENDMENT FOR CAMPSITES**—Section 401 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-6a(b)) is amended by striking the next to the last sentence

TITLE VI—COMMUNICATIONS LICENSING AND SPECTRUM ALLOCATION IMPROVEMENT

SEC. 6001. TRANSFER OF AUCTIONABLE FREQUENCIES

(a) **AMENDMENT**—The National Telecommunications and Information Administration Organization Act (47 U.S.C. 901 et seq.) is amended—

(1) by striking the heading of part B and inserting the following:

"PART C—SPECIAL AND TEMPORARY PROVISIONS",

(2) by redesignating sections 151 through 155 as sections 151 through 155, respectively, and

(3) by inserting after part A the following new part

"PART B—TRANSFER OF AUCTIONABLE FREQUENCIES.

"SEC. 111. DEFINITIONS.

"As used in this part

"(1) The term 'allocation' means an entry in the National Table of Frequency Allocations of a given frequency band for the purpose of its use by one or more radiocommunication services.

"(2) The term 'assignment' means an authorization given to a station licensee to use specific frequencies or channels

Senate amendment

Section 322(c)(8) as added by the Senate Amendment contains similar definitions of the terms "commercial mobile service" and "private land mobile service". The differences in the Senate definition of "commercial mobile service" are: (1) that "offered on an indiscriminate basis" is not one of the tests for determining a "commercial mobile service" in the Senate Amendment; (2) the Senate definition expressly recognizes the Commission's authority to define the terms used in defining "commercial mobile service"; and (3) the Senate definition requires that "interconnected service" must be made available to the public, as opposed to the House definition which simply requires the service offered to the public to be "interconnected". In other words, under the House definition, only one aspect of the service needs to be interconnected, whereas under the Senate language, the interconnected service must be broadly available. The Senate Amendment defines "interconnected service" as a service that is interconnected with the public switched network or service for which an interconnection request is pending. The definition of "private land mobile service" in the Senate amendment is virtually identical to the definition of "private mobile service" in the House bill.

Conference report

The Conference Report adopts the Senate definitions with minor changes. The Conference Report deletes the word "broad" before "classes of users" in order to ensure that the definition of "commercial mobile services" encompasses all providers who offer their services to broad or narrow classes of users as to be effectively available to a substantial portion of the public.

Further, the definition of "private mobile service" is amended to make clear that the term includes neither a commercial mobile service nor the functional equivalent of a commercial mobile service, as specified by regulation by the Commission.

The Commission may determine, for instances, that a mobile service offered to the public and interconnected with the public switched network is not the functional equivalent of a commercial mobile service if it is provided over a system that, either individually or as part of a network of systems or licensees, does not employ frequency or channel reuse or its equivalent (or any other techniques for augmenting the number of channels of communication made available for such mobile service) and does not make service available throughout a standard metropolitan statistical area or other similar wide geographic area.

SECTION (B)

House bill

Subsection (B) of the House bill adds a conforming amendment to the definition in Section 3(n) of the Communications Act of "mobile service" to clarify that the term includes all items previously defined as "private land mobile service" and includes the licenses to be issued by the Commission pursuant to the proceedings for personal communications services.

Senate amendment

The Senate Amendment makes almost the identical changes to the definition of "mobile service" in Section 3(n) of the Communications Act except that the Senate Amendment clarifies that the term does not include rural radio service or the provision by a local exchange carrier of telephone exchange service by radio instead of by wire.

Conference agreement

The Conference Agreement adopts the House definition.

SUBSECTION (b)(2)

House bill

Section (b)(2) of the House bill makes additional conforming amendments to clarify headings and spacing.

Senate amendment

The Senate Amendment does not contain the provisions contained in the House bill. The Senate Amendment contains a technical amendment to Section 2(b) of the Communications Act to clarify that the Commission has the authority to regulate commercial mobile services.

Conference agreement

The Conference Agreement adopts the Senate position.

SUBSECTION (c)

House bill

Section 5206 of the House bill established effective dates and deadlines for Commission action. Under the House bill, the amendments made by the above chapter are effective upon the date of enactment, except that the amendments made by section 5205 on regulatory parity take effect one year after enactment, and that persons that provide private land mobile services shall continue to be treated as a provider of private land mobile service until 3 years after enactment. The House bill directs the FCC to prescribe rules to implement competitive bidding within 210 days of enactment. The House bill directs the Commission to, within 180 days after enactment, issue a final report and order in two proceedings regarding personal communications services and begin issuing licenses within 270 days after enactment. Finally, the House bill directs the Commission, within 1 year after enactment, to alter its rules regarding private land mobile services to provide for an orderly transition of these services to regulation as common carrier services.

Senate amendment

Under the Senate Amendment, all provisions regarding regulatory parity take effect one year after enactment, except (1) the provisions in 332(c)(1)(A) regarding the treatment of commercial mobile services as common carrier services take effect upon enactment; and (2) any person that provides private land mobile services before such date of enactment shall continue to be treated as a pro